

## TITLE I: GENERAL PROVISIONS

### Chapter

#### 10. GENERAL PROVISIONS

#### 11. CITY SEAL

### CHAPTER 10: GENERAL PROVISIONS

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#### ***Cross-reference:***

*For code enforcement procedures, see Chapter 38 of this Code*

## **§ 10.01 TITLE OF CODE.**

This codification of ordinances by and for the municipality of Manchester shall be designated as the Code of Manchester and may be so cited.

## **§ 10.02 INTERPRETATION.**

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

## **§ 10.03 APPLICATION TO FUTURE ORDINANCES.**

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

## **§ 10.04 CONSTRUCTION OF ORDINANCES; RECORDATION, PUBLICATION.**

(A) All bylaws passed by the Board of Mayor and Aldermen shall be termed “ordinances,” and the enacting style shall be: “Be it ordained by the Board of Mayor and Aldermen of the City of Manchester as follows.” (’71 Code, § 1-3)

(B) All the ordinances of the city shall be recorded by the City Clerk, in a fair and legible hand or typewritten, without interlineation or erasure, in the order in which they are passed, in a book to be kept for that purpose, with proper margin and index, to be entitled “Record of Ordinances of the City of Manchester,” which book shall be preserved in the office of the City Clerk, subject to the inspection of the citizens. (’71 Code, § 1-4)

(C) All the ordinances of the city and such resolutions and orders as the Board of Mayor and Aldermen may direct shall be published by causing the same to be inserted once in one or more newspapers printed and published in the city as the Board of Mayor and Aldermen shall from time to time designate; but whenever the city shall make a general revision of all of its ordinances, no publication of such revised ordinances shall be required in any newspaper. (’71 Code, § 1-5) (Ord. passed 2-15-66; Am. Ord. passed 2-3-70)

## **§ 10.05 CAPTIONS.**

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

## **§ 10.06 DEFINITIONS.**

(A) **General rule.** Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) **For the purpose of this code,** the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOARD OF MAYOR AND ALDERMEN.** The Board of Mayor and Aldermen of the City of Manchester.

**CITY.** The City of Manchester, New Hampshire.

**CODE, THIS CODE or THIS CODE OF ORDINANCES.** This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

**COMPUTATION OF TIME.** When time is to be reckoned from a day, date, act done, or the time of an act done, either by force of law, or by virtue of a contract made since December 23, 1842, such day, date, or the day when such act is done shall not be included in the computation.

**CORPORATE or CITY LIMITS.** The legal boundaries of the City of Manchester.

**COUNTY.** Hillsborough County, New Hampshire.

**DELEGATION OF AUTHORITY.** Whenever a provision appears requiring the head of a department or some other city officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate, and authorize subordinates to perform the required act or perform the duty unless the terms of the provisions of the section specify otherwise.

**JOINT AUTHORITY.** All words purporting to give a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers, unless otherwise expressly declared.

**MAYOR.** The Mayor of Manchester.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**.

**OFFICERS, OFFICE, EMPLOYEE, COMMIS- SION, or DEPARTMENT.** An officer, office, employee, commission, or department of this municipality unless the context clearly requires otherwise.

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**OWNER.** Applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

**PERSON.** Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PERSONAL PROPERTY.** Includes every species of property except real property, as herein described.

**PRECEDING** or **FOLLOWING.** Next before or next after, respectively.

**REAL PROPERTY.** Lands, tenements, and hereditaments.

**REGISTERED MAIL.** When used in connection with the requirement for notice by mail shall mean either registered mail or certified mail.

**SHALL.** The act referred to is mandatory.

**SIGNATURE** or **SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The State of New Hampshire.

**STREET.** Includes streets, avenues, boulevards, roads, alleys, lanes, viaducts, and all other public ways in the city, and shall include all areas thereof embraced between the property lines and dedicated to the public use.

**SUBCHAPTER.** A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

**TENANT** or **OCCUPANT.** Applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or part of such buildings or land, either alone or with others.

**WHOLESALE, WHOLESALER** or **WHOLESALE DEALER.** In all cases where the words **WHOLESALE, WHOLESALER** or **WHOLESALE DEALER** are used in this Code, unless otherwise specifically defined, they shall be understood and held to relate to the sale of goods, merchandise, articles or things in quantity to persons who purchase for purposes of resale, as distinguished from a retail dealer who sells in smaller quantities direct to the consumer.

**WRITTEN.** Any representation of words, letters, or figures, whether by printing or otherwise.

**YEAR.** A calendar year, unless otherwise expressed; equivalent to the words **YEAR OF OUR LORD.**

('71 Code, § 1-2)

### § 10.07 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless such

construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) **AND** or **OR**. Either conjunction shall include the other as if written “and/or,” if the sense requires it.

(B) *Acts by assistants*. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) *Gender; singular and plural; tenses*. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) *General term*. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

#### **§ 10.08 SEVERABILITY.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

#### **§ 10.09 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

#### **§ 10.10 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

#### **§ 10.11 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as

will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

#### **§ 10.12 OFFICIAL TIME.**

The official time, as established by applicable state/federal laws, shall be the official time within this municipality for the transaction of all municipal business.

#### **§ 10.13 REASONABLE TIME.**

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

#### **§ 10.14 ORDINANCES REPEALED.**

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

#### **§ 10.15 ORDINANCES UNAFFECTED.**

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

#### **§ 10.16 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

## **§ 10.17 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

## **§ 10.18 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

## **§ 10.19 SECTION HISTORIES; STATUTORY REFERENCES.**

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. passed 5-13-60; Am. Ord. passed 1-1-70; Am. Ord. passed 1-1-80; Am. Ord. passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute.

Example: R.S.A. 31:69-a (Ord. passed 1-17-80; Am. Ord. passed 1-1-85).

(2) If a statutory cite is set forth as a “statutory reference” following the text of the section, this indicates that the reader should refer to that statute for further information.

Example:

**§ 39.01 PUBLIC RECORDS AVAILABLE.**

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

***Statutory reference:***

*For provisions concerning the inspection of public records, see R.S.A. 91-A:4*

(C) If a section of this code is derived from the previous code of ordinances of the city published in 1971 and subsequently amended, the 1971 code section number shall be indicated in the history by “(‘71 Code, § \_\_\_\_).”

**§ 10.20 UNAUTHORIZED ALTERATION OR TAMPERING WITH CODE.**

It shall be unlawful for any person in the city to change or amend, by additions or deletions, any part or portions of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

(‘71 Code, § 1-8) Penalty, see § 10.99

**§ 10.21 OFFICERS AND EMPLOYEES NOT LIABLE TO FINE FOR FAILURE TO PERFORM DUTIES.**

No provision of this code designating the duties of any officer or employee shall be so construed so as to make such officer or employee liable for any fine or penalty provided in this code for a failure to perform such duty, unless the intention of the Board of Mayor and Aldermen to impose such fine or penalty on such officer or employee is specifically and clearly expressed in the section creating the duty.

(‘71 Code, § 1-12)

**§ 10.22 ACTS PUNISHABLE UNDER DIFFERENT SECTIONS.**

In all cases where the same offense is made punishable or is created by different clauses or sections of this code, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense, provided that the revocation of a license or permit shall not be considered a recovery or penalty so as to bar any other penalty being enforced.

(‘71 Code, § 1-13)

## **§ 10.99 GENERAL PENALTY.**

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding the maximum allowed by R.S.A. 47:17 or other law. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

('71 Code, § 17<sup>3</sup>/<sub>4</sub>-1)

### ***Cross-reference:***

*For code enforcement procedures, see Chapter 38*

## **CHAPTER 11: CITY SEAL**

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### **Section**

- 11.01 City seal
- 11.02 Depiction of city seal

## **§ 11.01 CITY SEAL.**

The seal of the city shall be as follows:

(A) A circular disk, upon the border of which shall be the words: “City of Manchester. Incorporated June 1846.”

(B) Upon the disk, to be a shield divided into three compartments, each to contain a device. First, a waterfall with trees and the Uncanoonuc Mountains in the background. Second, a piece of machinery called a regulator. Third, a factory building and a locomotive with a transportation car loaded with bales of manufactured goods.

(C) The shield surmounted by a hand holding a hammer with a scroll containing the words “Labor Vincit” - the whole being the design hereto annexed.

(D) The city seal shall be the property of the city. No person shall manufacture, sell, expose for sale, or have in his possession for sale any article or substance, being an article of merchandise or receptacle of merchandise or article or thing for carrying or transporting merchandise, or sell, expose for sale, give away, or have in possession for sale or to give away, or for any purpose any article or thing to advertise or promote services, upon which shall have been painted, printed, attached, or otherwise placed, a representative or likeness of the city seal.

('71 Code, § 2-1) (Ord. passed 3-2-76) Penalty, see § 10.99

**§ 11.02 DEPICTION OF CITY SEAL.**

